

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

PROCEDURES ESTABLISHED)	
REGARDING THE COMMISSION'S)	
CONSULTATIVE ROLE IN THE)	GN Docket No. 09-40
BROADBAND PROVISIONS OF)	
THE RECOVERY ACT)	

COMMENTS OF THE



BROADBAND DEVELOPMENT CORPORATION

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TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY.....	4
II. COMMENT TO THE COMMISSION ON ITS CONSULTATIVE ROLE ON THE FIVE DEFINITIONS LISTED BELOW	
A. The definition of “un-served area,”	6
B. The definition of “underserved area,”	6
C. The definition of “broadband,”	6
D. The non-discrimination obligations that will be contractual conditions of BTOP grants.....	7
E. The network interconnection obligations that will be contractual conditions of BTOP grants.	9
III. CONCLUSION.....	10

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The Broadband Development Corporation (BDC) hereby submits its comments in the above-captioned proceeding.

BDC was founded on an unparalleled commitment to corporate ethics, transparency, and conservative cash management. BDC's provides a total solution approach to mapping, designing, building and maintaining net-neutral, multi-technology broadband networks in rural, underserved, and un-served areas throughout the United States as well as a strong, public interest focus on distance learning, telemedicine, and community development.

I. INTRODUCTION AND SUMMARY

The NTIA, RUS, and FCC have a tremendous opportunity to realize the vision of bringing the benefits of broadband access to all of America. The Recovery Act's broadband program can stimulate job creation and spur economic development immediately and for years to come.

In testimony to the House Committee on Energy and Commerce Subcommittee on Communications, Technology, and the Internet, Mark G. Seifert, Senior Advisor to the Assistant Secretary of the NTIA, noted a number of guiding principles and goals of the Act, including that "Communications networks help improve the efficiency of virtually every sector of the economy. The Obama Administration is committed to harnessing the power of broadband technology to stimulate economic growth, create jobs, and help lay the foundation for long-term prosperity for all Americans."

To meet the statutory mandates of The Recovery Act, the Administration set five goals as follows:

- Create jobs
- Close the broadband gap in America.
- Stimulate investment by requiring grantees that take Federal money to invest their own funds as well.
- Take steps to ensure that our schools, universities, libraries, community centers, job training centers, hospitals, and public safety personnel have high-speed access.
- Encourage the demand for broadband.

The Broadband Technology Opportunities Program (BTOP) allocates \$4.7 billion dollars to the NTIA for the general purpose of accelerating the deployment and adoption of broadband services. There are many laudable goals for the BTOP, including broadband deployment in un-served and underserved areas, broadband access for public safety agencies, and driving broadband demand. All of this must be done while protecting the taxpayers' investment.

As Seifert noted, “One of the biggest challenges we will face is deciding which applications to fund.” The Recovery Act has given guidance as to how this can be done, namely considering applications that increase the affordability of, and subscribership to, service to the greatest population of users in an area; whether the application will enhance service for health care delivery, education, or children to the greatest population of users in an area; and whether it will not result in unjust enrichment as a result of support from another Federal program in the area.

Ultimately, the program and winning applications must build a 21st century communications infrastructure that implements the best-available technologies to the greatest population of users in an area.

As we stand at the precipice of this enormous public works opportunity, many analogies have been drawn between the BTOP and the New Deal-era rural electrification program. Many important lessons can be drawn from our nation’s rural electrification program to assist in a responsible, forward-looking broadband deployment.

First, simply ‘connecting’ users is not good enough. While our nation was ‘electrified’, years later we are dealing with a patchwork grid system with much inefficiency. We must deploy broadband access knowing that new technologies are around the corner, and provide enough flexibility within the system we deploy. This will be met not with a one-size (technology)-fits-all approach, but rather, by using multiple technologies to reach certain areas. Providing broadband access in one area may be done with DSL build out, where other areas may require Broadband-Over-Power Lines (BPL) or wireless.

Second, once these broadband networks are built, the users must understand how to take advantage of these services to build demand. The constructors and operators of these networks must provide assistance to the user for accessing services—job and economic development, healthcare, education, to name a few—and work with the local communities to maximize the

value of this investment.

Finally, these newly-deployed systems must be managed, operated, and maintained. This could cause problems for NTIA and others in administering the system. A cost-effective approach is to find a prime/general contractor who will incorporate best technology, services, and practices to ensure that the new broadband system is effective for users.

II. COMMENT TO THE COMMISSION ON ITS CONSULTATIVE ROLE ON THE FIVE DEFINITIONS LISTED BELOW

A. The definition of “un-served area”.

The Federal Communications Commission currently requires broadband providers to report list of zip codes in which they currently provide broadband service. BDC defines “ un-served areas” as zip codes with no broadband service at all, in addition to community areas within zip codes that have not had broadband services extended to them due to density of homes, socio-economic conditions, or commercially concentrated areas.

B. The definition of “underserved area”.

BDC agrees with the definition offered by the Communication Workers of America in the April 6, 2009 *USA Today* article, FCC to decide what 'underserved, broadband' really mean: Definitions could determine how stimulus money is spent, as any market where broadband is less than 3 megabits per second downstream and 256Kbps upstream. BDC also stipulates underserved areas as those areas in which socio-economic conditions prohibit service usage due to affordability issues.

C. The definition of “broadband”.

BDC encourages the Commission to define “broadband” as a download speeds starting at 5 megabits per second in the downstream and 1 megabit per second in the upstream, given the increased demand for bandwidth through applications and streaming video.

D. The non-discrimination obligations that will be contractual conditions of BTOP grants

BDC believes the Commission should establish the following contractual conditions on the BTOP grants:

- The Commission should establish a small business set aside for this program.
- Establish social and economic return on investment criteria in the selection of the BTOP grants.
- Companies receiving BTOP grants must ensure compliance with executive compensation provisions, similar to those companies receiving TARP (Troubled Asset Relieve Program) Funds.
- Companies receiving BTOP grants must ensure full disclosure – Any business receiving money should fully disclose how every dollar had been spent to the US Government and the American Taxpayers by posting each journal entry to their account on the internet. If funding is utilized for any portion of a project, then all funds for the entire project should be disclosed.
- Companies receiving BTOP grants must demonstrate a robust ethics program – Any business receiving money should comply with an ethics policy with the following minimum requirements:
 - A detailed ethics policy and an independent member of the board of directors chairing the Compliance and Ethics subcommittee of the Board.
 - A limit of personal gifts (including meals, entertainment, promotional items, etc.) of \$100 per any vendor or potential vendor in a calendar year.
 - A detailed travel and entertainment policy, including a policy to require all employees (including executives) to book flights in a coach class while

travelling within the continental 48 states and in coach or business class when traveling outside the continental 48 states.

- By constructing broadband networks, broadband operators have an asset with a fairly consistent revenue stream. Because the networks are to be built using grants and loans, the operators have a responsibility to repay the taxpayers a portion of the profits or reinvest those profits in expanding the program to other areas. These assets belong to the American Taxpayer, not the shareholder of the broadband operator.
- A primary goal of the Stimulus Act is to create sustainable jobs and the BTOP grants should adequately fund programs to provide outreach and assistance programs.
 - An online resource and support to assist job seekers in creating a resume, utilizing the internet to find and apply for positions, and develop interviewing skills.
 - If an employee is currently on unemployment or severance, they should be provided free broadband services (if federal money was used to build the network).
 - An online resource and support in career development and education.
- Take steps to ensure that our schools, universities, libraries, community centers, job training centers, hospitals, and public safety personnel have high-speed access.
- The BTOP grants should utilize funds to communicate business and communities on best practices that work in keeping and creating jobs. This should include:
 - Virtual Call Centers.
 - Telecommuting.

- Disaster Recovery.
- Online Banking and Financial Services.
- Marketing businesses beyond local geographic areas.

E. The network interconnection obligations that will be contractual conditions of BTOP grants

BDC believes the Commission should establish the following interconnection conditions on the BTOP grants:

- Network connections should be built under a premise of open access and interoperability platforms in order to ensure the greatest access of hardware and applications to all consumers and industries.
- Net neutrality is defined as a broadband network free of restrictions on content, sites, platforms, attached equipment, and the modes of communications.
 - With this statement however comes a premise that network connections in support of emergency services such as telemedicine and first responders shall always have a priority of service through negotiated Service Level Agreements which may place these services on a separate network
- Build out requirements – BDC recommends that while all States should receive some portion of these initial funds, those States which have the lowest availability of broadband services based on the 2007 census should receive a priority of Federal Funds to quickly bring those states to parity of available services. BDC recommends that States augment Federal Funds with State Funds to enhance those un-served and underserved areas of their respective locales with an emphasis on ensuring access to rural communities, businesses, healthcare and educational institutions.

- Support of public infrastructure – BDC recommends the construction of networks that will support public services in order that even the most remote locations may be tied into the national network smart grid to enhance delivery of utilities, safety services, emergency services and educational services. BDC believes that these networks should be built and supported with Grant funds rather than loans, since these networks are not profit generating services, in order to ensure the proper construction and ongoing maintenance required for these network services to survive long into the future.

III. Conclusion

The NTIA, RUS, and FCC have a tremendous opportunity to realize the vision of bringing the benefits of broadband access to all of America and create sustainable jobs as well as a responsibility to not repeat the mistakes in building a national power infrastructure. Therefore, BDC is recommending the NTIA, RUS, and FCC utilizes a “prime contractor” to manage this program. The role of the prime contractor should be divided into five primary areas:

1. Evaluate each expansion project for a social and economic return on investment. The prime contractor should be responsible for working with each state that has a broadband expansion programs and assist states that do not with developing programs by utilizing best practices. The prime contractor should also be responsible for initially assessing each project under the program to ensure the most appropriate technology is utilized and presenting recommended projects to the oversight board (NTIA, RUS and FCC) for evaluation and approval.
2. Construct multi-technology broadband networks. After the oversight has approved a project, the prime vendor should be responsible for constructing the broadband network. When constructing the broadband network, the prime contractor may be connecting to an existing network or building a stand-alone service area.
3. Manage and service broadband networks. The prime contractor should be involved in the

management of network subscribers in one of the following roles:

- a. The prime vendor will design, construct, manage, and service broadband, net-neutral networks in rural and underserved areas. Subscribers will pay the prime vendor directly.*
- b. The prime vendor will add on to an existing broadband operator by designing and constructing a network addition. Subscribers would pay the local operator, however plant maintenance and service would be performed by prime vendor. The local operator would pay a fee to the prime vendor for the initial construction as well as the maintenance and service.*
- c. The prime vendor will add on to an existing broadband operator by designing and construction a network addition. All management and service would be the responsibility of the operator. The local operator would pay a fee for the initial construction.*

*A portion of all fees paid by the subscriber for the initial construction would be utilized for repayment of loans to the Federal Government.

4. Business/Community Best Practices. The prime contractor should develop a program to educate businesses and communities on the benefits of broadband as well as identifying and communicating best practices that have spurred business growth and community development.
5. Public Program Focus. The prime contractor should partner with non-profit organizations to significantly improve the following programs:
 - a. Education/Distance Learning
 - b. Computer ownership/literacy.
 - c. Interoperable broadband communications systems for public safety and emergency response.
 - d. Healthcare delivery.

- e. Veterinary care delivery
- f. Career education.

In closing, BDC supports the Commission in developing criteria on the development and deployment of a national broadband network and encourages the NTIA, RUS, and FCC in reviewing the benefits of a prime contractor because the proper resources do not currently exist to attack this aggressive initiative.

Respectfully submitted,

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